

The 21st/22nd July, 1972

No. 8106-4Lab-72/31044.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Seth Ram Narain Roller Flour Mills, Bahadurgarh (Rohtak).

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD.

Reference No. 31 of 1972

Between

THE WORKMEN AND THE MANAGEMENT OF M/S SETH RAM NARAIN ROLLER FLOUR MILLS,  
BAHADURGARH (ROHTAK)

Present.—Shri C.B. Kaushik and Shri Rajinder Dahiya for the workmen.

Shri D.C. Chadha for the management.

## AWARD

The following dispute existing between the workmen and the management of M/s Seth Ram Narain Roller Flour Mills, Bahadurgarh (Rohtak), were referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/RK/126-A-72/14701, dated 18th April, 1972 :—

- (1) Whether Dearness allowance should be granted to the workers of the factory? If so, with what details?
- (2) Whether the workers should be granted bonus for the year 1970-71 at a higher rate than 12 per cent bonus already paid to them? If so, with what details?
- (3) Whether the workers should be supplied with seasonal uniforms? If so, with what details?
- (4) Whether grades and scales of pay of the workers of the factory should be fixed? If so, with what details?

On receipt of the order of reference, the parties were called upon to put in their respective written statements. The workmen filed the statement of claim on 27th May, 1972, reiterating their demands raised earlier through the demand notice dated 10th November, 1971, received with the order of reference. The management filed the written statement on 27th May, 1972, contesting the demands of the workmen. The issues that arose for determination in the case were the same as per terms of reference stated above.

It is, however, not necessary to go into the merits of the case as all the disputes have been amicably settled between the parties, as per the terms and conditions given in the memorandum of settlement dated 14th June, 1972, Ex. M-1. Statements of the authorised representatives of the parties have been recorded. They want the award to be made accordingly.

I, therefore, make the award in terms of the memorandum of settlement dated 14th June, 1972, Ex. M-1 which shall form part of the award. In the circumstances, there shall be no order as to costs.

Dated. 7th July, 1972.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 769, dated 7th July, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 7th July, 1972.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

## MEMORANDUM OF SETTLEMENT

Representing the employers

Shri Shree Bhagwan,  
Manager/Partner,  
M/s Seth Ram Narain Roller Flour Mills, Bahadurgarh.

Representing the workmen

1. Shri Rajinder Singh Dahiya, President.
2. Shri Chander Singh Joon, Secretary, Bahadurgarh Potteries & General Labour Union, Bahadurgarh.
3. Shri Jagbir Singh, Mill Mistry.

## SHORT RECITAL OF THE CASE

The Haryana State Government, vide notification No. ID/RK/126-A-72/14701-5, dated 18th April, 1972, had referred an industrial dispute for adjudication to the Hon'ble Industrial Tribunal, Haryana, Faridabad. This case is pending as reference No. 31 of 1972 and the next date is 5th July, 1972 at Gurgaon for evidence of the parties, but in the meantime the parties have been mutually discussing the matter and they have now come to the following settlement out of the Court.

## TERMS OF SETTLEMENT

## 1. Re. D.A.

(a) The parties agree that no separate scheme of D.A. shall be introduced in the Mill.

(b) According to notification No. 8705-Lab-370/31605, dated 15th October, 1970, the Haryana State Government has already revised the Minimum rates of wages in the Rice, Flour and Dal Mills and there is already a provision for linkage in case of rise in the cost of Living Index Numbers over the prescribed rates of wages for different categories of workmen. It is agreed, therefore, that only this linkage with the prescribed minimum rates of wages shall be followed.

## 2. Re. Bonus for the year 1970-71:—

The Management has already paid bonus at 12 per cent of the annual salary or wages earned by a workman during that year. It now agrees to pay 50 percent of the amount already paid to every workman, thus making the rate of Bonus equal to 18 per cent of the annual salary or wages earned by a workman.

## 3. Re: Supply of Uniforms:

(a) That the parties agree that Uniforms would be supplied to such of the Chowkidars only who shall have put in at least one year's continuous service in the concern.

(b) 2 sets of cotton uniforms shall be supplied to such chowkidars in every year. These uniforms shall be supplied to the concerned workmen as far as possible by 30th April every year.

(c) One set of woollen uniforms shall be supplied to such chowkidars who shall be entitled to uniform after every three years. This set shall be supplied as far as possible by 31st October of the year in which this Uniform would fall due.

(d) The cotton uniforms for the summer shall consist of a Bushirt and Pan whilst woollen uniforms shall consists of a coat and pant.

(e) It will be the duty of every workman to wear the uniform when on duty. It is also made clear that uniforms are to be treated as part of the duty and not a wearing apparel as part of the wages. They shall therefore not use the uniform while off duty and on private use. Contravention of these provision shall render the defaulter liable to necessary action.

## 4. Re. Fixation of Grades and Scales of Pay

(a) The workmen give up this demand in view of the concern not running economically at present.

(b) As a gesture of goodwill, however, the management agrees to grant as adhoc increase at 5 per cent to all such workmen who shall have put in one year's continuous service upto March with effect from 1st April, 1972.

(c) This increment shall be added on the wages for the month of June, 1972 payable in July, 1972 and the arrears for the months of April and May, 1972 also shall be paid at the same time.

(d) This shall not be treated as a precedent for future by the workman.

5. Parties further agree that bonus for the year ending 31st March, 1972 shall be paid at 20 per cent of the annual salary or wages of an employee who would be otherwise entitled to bonus under law.

6. The workmen agree not to raise any demand or dispute involving financial burden on the management upto 31st March, 1973.

7. It is further agreed between the parties that the Management shall send by Registered A.D. post, copies of this Settlement to the authorities prescribed under law and retain the receipts thereof for its record and shall also send a copy thereof to the Hon'ble Industrial Tribunal at Faridabad and that the said dispute reference No. 31 of 1972 shall be deemed to have been fully settled.

This Settlement made this 14th day of June, 1972 at Bahadurgarh.

#### FOR WORKMEN

#### SIGNATURES OF PARTIES:

1. Sd/—Rajinder Singh Dahiya
2. Sd/—Chander Singh Joon.
3. Sd/—Jagbir Singh.

For M/s Seth Ram Narain Roller Flour Mills.

(Sd.) SHREE BHAGWAN  
Manager/Partner.

#### WITNESSES:

1. Sd/—Ramji Dass.
2. Sd/—Ram Niwas.
3. Sd/—Sunder Lal.
4. Sd/—Rameshwar Dayal.
5. Sd/—Rama Nand Sharma.
6. Sd/—
7. Sd/—
8. Sd/—
9. Sd/—

Copy to :— (By Regd. A.D. Post)

1. Labour/Conciliation Officer, Sonapat.
2. Labour Commissioner, Haryana, Chandigarh.
3. Secretary, Labour Department, Government of Haryana, Chandigarh.
4. Hon'ble Industrial Tribunal, Haryana, Faridabad, Ref. No. 31 of 1972.

ATTESTED  
O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 8043-4-Lab-72/31059—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Labour Commissioner, Haryana, Sole Arbitrator, Chandigarh, respect of the dispute between the workmen and the management of M/s Haryana Co-operative Sugar Mills Ltd., Rohtak.

BEFORE SHRI M. KUTTAPPAN, I. A. S., LABOUR COMMISSIONER, HARYANA,  
AND ARBITRATOR

between

M/S HARYANA CO-OPERATIVE SUGAR MILLS LIMITED, ROHTAK AND THEIR  
WORKMEN

Present—

Shri R. D. Garg, General Manager and Shri R. D. Sharma, Office Manager.

On behalf of the management.

2. Shri Jit Singh, President, Haryana Suggar Mills Workers Union, Rohtak.

On behalf of the workmen.

3. Sarvashri Ved Parkash and Krishan Datt, Office bearers of the Union.

## AWARD

*Vide* Haryana Government Notification No. 1D/RK/83-E-70/16362, dated the 2nd June, 1970, I was appointed as an Arbitrator by the parties to arbitrate on the demand notices dated the 18th November, 1969, 30th December, 1969 and the 26th March, 1970 served by the Workmen on Haryana Co-operative Sugar Mills Limited, Rohtak through the Haryana Sugar Mills workers Union, Rohtak.

2. The parties appeared before me on 15th and 16th July, 1972, at Rohtak and made a statement that a settlement has been reached between them as a result of mutual discussions. They also submitted a copy of the said settlement and requested that the award may be given in terms of the same. I accordingly give my award in terms of the settlement, a copy of which is enclosed.

3. The award is hereby submitted to the Government under section 10A(4) of the Industrial Disputes Act, 1947.

Dated the 18th July, 1972

M. KUTTAPPAN,

Labour Commissioner, Haryana and  
Arbitrator.

Settlement on the demands contained in the following demand notices between the workers and management of the Haryana Co-operative Sugar Mills Ltd; Rohtak.

## Parties:

- (a) *Employers*—the Haryana Co-operative Sugar Mills Ltd; Rohtak represented by: —  
Shri R. D. Garg: General Manager.  
Shri R. D. Sharma : Office Manager.
- (b) *Workmen*—Through the Haryana Sugar Mills Workers Union. Represented by—  
Shri Ved Parkash, Shri Krishan Datt., Shri Jit Singh.... Office bearers of the union.

## DEMAND NO.

## SETTLEMENT

## DEMAND NOTICE, DATED THE 18TH NOVEMBER, 1969

1. Demand withdrawn by the union.
2. The management agreed to pay single IIIrd class railway fare to the seasonal workers for joining their duties provided they have to come from their place of domicile situated at a distance of 150 miles or above.
3. The worker has already been reinstated by the Labour Court.
4. Case being of dismissal, it is agreed between the parties that the Union may approach the appropriate court/tribunal for adjudication as law point is involved.
5. The official has already been given the prescribed grade of the post.
6. The management agreed to provide warm uniform to seasonal watchmen against suitable surety/security deposit from them.
7. The incumbents are designated as payment Clerks and have been given the prescribed grade of the post.
8. The allowance has been increased from Rs. 15 to Rs. 20 p. m.
9. The management has issued written instructions for transfer of Shri Bachan Singh, but the C. E. may allocate the duties to the worker else where also in the factory.
10. The worker has been given the prescribed grade of pay.
11. The worker has been given the grade of Head Fitter.
12. & 13. Case being of dismissal, it is agreed between the parties that the union may approach the appropriate Court/Tribunal for adjudication as law point is involved.
14. The management has revised the rate of wages of daily paid workers.
15. The management agreed to pay extra wages to those workers on whose weekly rest day the holiday happens to fall in the season.

16. The worker has been given the higher grade of pay.
17. Case being of dismissal, it is agreed between the parties that the union may approach the appropriate court/Tribunal for adjudication as law point is involved.
18. Demand withdrawn.
19. The official has been given higher grade of pay.
20. The management agreed to make appointment of bills for one Urdu and one Hindi daily news-papers after verification by the representative of the Union.
21. The parties agreed to approach the appropriate authorities for allotment of one single room quarter in the Industrial Colony for use as Union's office.
22. The official has been given higher grade of pay.
23. & 24. Demand withdrawn.
25. Contrary to law; hence withdrawn.
26. The parties agreed to follow the recommendations of the Second Wage Board for Sugar Industry.
27. Practice followed is in accordance with the provision of the Factories Act. Hence demand withdrawn.
28. The management agreed to appoint a whole time Medical Officer.

DEMAND NOTICE DATED THE 30TH DECEMBER, 1969.

1. The parties agreed that the payment of retaining allowance should be regulated according to the recommendations of the Second Wage Board for Sugar Industry.
- 2, 3, & 4. Demand withdrawn.
5. Management agreed to give preference to old workers in the recruitment of daily paid labourers.
6. The parties agreed that uniforms should be issued to workers in accordance with the provisions of the Factories Act.
7. The Kamdars have been given higher grade under the second Wage Board; Hence withdrawn.
8. The officials have been given higher grade of pay.
9. The management agreed to consider cases of higher grade of pay after the incumbents reach the maximum of their old scale.
10. The management has posted the officials on the job of higher post.
11. The management agreed to pay house rent for one single room quarter for use as welfare centre.

DEMAND NOTICE DATED 26TH MARCH, 1970.

- 1, 2, & 3. Demands withdrawn.
4. The management agreed to frame business & Service Rules for the employees of the Mills.
5. & 6. The management agreed to review the present practice in the light of the provision of the Factories Act.
7. The management agreed to consider the demand after increase in strength of staff is approved by the Board.
8. & 9. Demands withdrawn.
10. The parties agreed that payment of retaining allowance should be regulated according to the recommendations of the Second Wage Board for sugar Industry.

11. The management agreed to consider the case of Sri Sita Ram, Fitter sympathetically.
12. The management accepted this demand.
13. 14 & 15. Demands withdrawn.
16. The Union is satisfied with the present practice.
- 17, 18, 19 & 20. Demands withdrawn.
21. The management agreed to review the present practice in light of the provision of the Factories Act.
- 22 & 23. Demand withdrawn.
24. The management agreed to review present practice of replacing items of furniture issued to the employees.

(Sd.) Jit Singh.

for the Haryana Co-operative Sugar Mills Ltd;

(Sd.) Ved Parkash.

(Sd.) . . . .

General Manager.

No. 8098-4Lab-72/31046.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Usha Spinning & Weaving Mills Ltd., 12/1, Mathura Road, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA  
FARIDABAD.

Application No. 1 of 1972 under section 33-A of the Industrial Disputes Act, 1947.

between

SHRI NASIB CHAND AND THE MANAGEMENT OF MS/ USHA SPINNING AND WEAVING  
MILLS LTD., 12/1, MATHURA ROAD, FARIDABAD.

Present :

Shri Nasib Chand, concerned workman.

Dr. Anand Parkash with Shri K. Kumar, Personnel Office, M/s Usha Spinning and Weaving Mills Ltd., Faridabad.

#### AWARD

The management of M/s Usha Spinning and Weaving Mills Ltd: Faridabad terminated the services of its employee Shri Nasib Chand, Head Timekeeper with effect from 30th November, 1971. He brought the present complaint under Section 33-A of the Industrial Disputes Act, 1947 on 27th December, 1971 with the allegations that the impugned order of the termination of his services has been passed by the management during the pendency of reference No. 76 of 1969 and 35 of 1970 in respect of certain demands raised by the workmen in which he was a concerned workman and without seeking approval of this Tribunal. It was further contended that the order being in contravention of the provisions of Section 33-A of the said Act was illegal and unjustified and he was entitled to reinstatement with full back wages.

Notice of the above complaint was given to the management. The allegations made by Shri Nasib Chand were refuted by the management and it was alleged that Shri Nasib Chand having been assigned supervisory duties he was not a worker as defined under Section 2(S) of the Industrial Disputes Act, 1947 and as such the complaint under Section 33-A of the said Act was not maintainable. It was further contended that Shri Nasib Chand had in fact tendered his resignation on 29th November, 1971 which had been duly accepted by the General Manager and as such he was no longer an employee of the management.

Shri Nasib Chand, concerned workman contraverted the above allegations of the management in his replication. The following issues were framed:—

1. Whether the applicant is a workman as defined under the Industrial Disputes Act, 1947.
2. Whether there has been contravention of the provisions of Section 33 of the Industrial Disputes Act, 1947 as alleged by the applicant? If so, what relief the applicant is entitled to?

Shri Nasib Chand, concerned workman made his own statement on the last date and the case was fixed for the evidence of the management. No further evidence is, however, called for in the case as the parties have

arrived at an amicable settlement. Shri Nasib Chand, concerned workman has been reinstated by the management with effect from 12th June, 1972 and he has been paid his entire dues. He, therefore, does not want to proceed the present complaint which has become infructuous.

I, therefore, direct that the complaint be filed as settled and being consequently infructuous. There shall be no order as to costs.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 1st July, 1972.

Endorsement No. 717, dated Faridabad, the 1st July, 1972.

Forwarded (Four Copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 1st July, 1972.

No. 8024-4Lab-72/31055.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Ego Metal Works (P) Ltd., Gurgaon.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Applications Nos. 8, 9, 10, 11, 12, 13, 14, 15 of 1970 under section 33-A of the Industrial Disputes Act, 1947

*between*

SARVSHRI BADLE RAM, NIRMAL SINGH, KANTA PARSHAD, MURARI LAL, LAL CHAND,  
KALU RAM, JAGAN NATH AND MANI RAM, WORKMEN AND THE MANAGEMENT OF  
M/S EGO METAL WORKS (P) LTD., GURGAON.

*Present :*

Shri C. B. Kaushik, for the workmen.

Shri D. C. Chadha, for the management.

#### AWARD

This order will dispose of this and 7 other complaints under section 33-A of the Industrial Disputes Act, 1947, Nos. 9 to 15 of 1970 which have been consolidated, there being common questions of law and fact involved in all the cases. The material facts may shortly be stated as under :—

The workmen of M/s Ego Metal Works (P) Ltd., Gurgaon raised several demands which were referred for adjudication to this Tribunal and registered as Reference No. 41 of 1970. During the pendency of this reference the management passed orders of dismissal from service of Sarvshri Badle Ram, Nirmal Singh, Kanta Parshad, Murari Lal, Lal Chand, Kalu Ram, Jagan Nath and Mani Ram, workmen with effect from 25th June, 1970. Feeling aggrieved they brought the present complaints on 3rd August, 1970 with the allegations that the impugned action of dismissal from service had been taken against them by the management by way of victimisation on account of their union activities. It was further urged that they were all protected and concerned workmen and the management had neither sought permission of this Tribunal before taking the said action against them nor had any approval application been moved as contemplated under section 33(2)(b) of the Act.

With the above allegations in brief, they have prayed for their reinstatement with continuity of previous service and full back wages by striking down the orders of their dismissal which have been passed by the management in contravention of the provisions of section 33 of the Act.

The management has contested the above complaints of the workmen on the following grounds :—

(a) none of the complainants is a workman concerned in the dispute ;

- (b) they were not protected workmen as alleged by them ;
- (c) Reference No. 41/1970 regarding bonus for 1968 is redundant because the payment of Bonus Act is not applicable to the Respondents as yet ;
- (d) that in any case, a regular charge-sheet was issued to the complainants for their acts of misconduct and after giving them due and proper opportunity for rendering explanation in writing, a domestic enquiry was held in which they were found guilty and were dismissed after being afforded all principles of natural justice and fairplay ;
- (e) the management is not in the know of any trade union activities of the complainants.

In their replication the workmen have controverted the above pleas raised by the management. The following issues arose for determination which are common in all the cases :—

- (1) Whether the complainant is not a workman concerned in the dispute bearing Reference No. 41/1970 which is pending in the Tribunal ?
- (2) What is the effect of the dismissal of the application of the Secretary, Engineering Mazdoor Union, Gurgaon, being made a party in Reference No. 41 of 1970 ?
- (3) Whether the complainant is a protected workman ?
- (4) Whether an objection can be raised in these proceedings regarding the validity of Reference No. 41 of 1970 on the ground that Payment of Bonus Act is not yet applicable to the Respondent concern ?

The management has brought on record the proceedings of the domestic enquiry alleged to have been conducted against the workmen and one witness Shri Sohan Lal, Time Keeper has been examined. According to Shri Sohan Lal M.W.-1, the enquiry against the workmen was held by Shri Jaswant Singh and he (Shri Sohan Lal) had recorded the proceedings. He has referred to the enquiry proceedings and other documents Ex. M-1 to Ex. M-49.

The concerned workmen besides making their own statements have examined Shri C. B. Kaushik General Secretary, Engineering Mazdoor Union, Gurgaon and their authorised representative who has made a detailed statement. The documentary evidence relied upon by the workmen consists of copies of settlements arrived at between the workmen and the management of M/s Ego Metal Works (P) Ltd., Gurgaon Ex. W.W. 1/1 to Ex. W.W. 1/3, suspension order of the workmen Ex. W.W. 1/4, copy of an award, dated 4th July, 1968, Ex. W.W. 1/5, copy of the relevant extract from another award, dated 5th November, 1968 Ex. W.W. 1/6, lists of workmen Ex. W.W. 1/7, letters received from the Labour Court Ex. W.W. 1/8, Ex. W.W. 1/9, letter of the Labour Inspector Ex. W.W. 1/10, letters received from the Implementation Officer (Labour Commissioner, Haryana Office) Ex. W.W. 1/11, letter, dated 14th April, 1969 addressed to the management Ex. W.W. 1/12, A. D. receipt Ex. W.W. 1/13, letter addressed to the union by the workmen W.W. 1/14, complaint made to the Labour Commissioner Ex. W.W. 1/15, Suspension letter Ex. 1/16 issued to another worker Shri Murari Lal.

The case has been argued on both sides and written arguments have also been filed by the learned representatives of the parties.

As would be clear from the facts stated above, the contention of the Workmen is that they have been dismissed from service without any justification and simply by way of victimisation on account of their trade union activities and without holding any proper enquiry against them and without seeking the permission or approval of this Tribunal which was necessary under section 33 of the Industrial Disputes Act, 1947. The management, on the other hand, has alleged that all these workmen were removed from service on charges of misconduct and after the due enquiry. It has, therefore, to be seen to which of the above contentions is correct. The charge-sheets given by the management to the workmen Ex. M-1 to Ex. M-8 which are of common nature read as under :—

“Since sometime it was brought to the notice of the Management by Shri O. P. Comar, Production Manager and Shri B. Makiija, Assistant Production Manager, in writing and verbally that you either idle away your time or sleep while on duty. In spite of the verbal warnings given by the Managing Director, Shri Darshan Singh Chawla and the undersigned, no attention was paid by you.

On your report and request a surprise raid at the factory premises was effected at 2.30 A. M. on Wednesday, the 3rd instant by Shri Dharmendra Nath, Regional Labour-cum-Conciliation Officer, Gurgaon, accompanied by the Labour Inspector when you were caught red-handed and found guilty of misconduct under sub-section (m) of Section 26 of the Orders of the Company reading as under :—

“(m) Sleeping while on duty.”



You are hereby given an opportunity to submit your explanation within 7 days of receipt of this order as to why disciplinary action should not be taken against you. If no reply is received within the prescribed time, it will be presumed that the charge has been accepted by you.

To enable to hold a proper enquiry in the case, you are suspended forthwith.

You should daily report at 9.00 A. M. on all working days to receive all communication or directions which may be addressed to you by the Management".

In their explanations Ex. M-9 to Ex. M-16 the workmen had categorically denied this charge and Sarvshri Badle Ram, Kalu Ram and Jagan Nath and further pleaded that they were on leave from 2nd September, 1969 to 4th September, 1969 and, therefore, the question of their having been caught sleeping while on duty on 3rd September, 1969 did not arise.

A careful scrutiny of the evidence on record produced on both sides, documentary as well as oral, gives as the impression that the management was displeased with these workmen manifestly on account of their trade union activities, all being office-bearers of the Engineering Mazdoor Union (Regd.). A list of the office-bearers had been communicated by the union to the management for their recognition as protected workmen but the management had not taken the necessary action in the matter as required by law. This, however, would not deprive the workmen of their rights as protected workmen. The Enquiry Officer has not come into the witness box, the said charge of neglect of the duty on the part of the workmen was allegedly based on the report of Shri Dharmendra Nath Labour-cum-Conciliation Officer, Gurgaon who had conducted a surprise raid in the factory accompanied by the Labour Inspector. Neither of these officers was examined as a witness in the so-called domestic enquiry nor does it appear that the report of Shri Dharmendra Nath was supplied to the workmen in spite of their repeated demand. Shri Dharmendra Nath has not been examined in the present proceedings also nor the Labour Inspector who is said to have accompanied him at the time of the raid. The statement of the solitary witness Shri Sohan Lal, Time Keeper M.W. 1 does not inspire any confidence, so as to hold that a just and fair enquiry had been conducted against these workmen after giving them full opportunity to defend their case. From the perusal of the detailed statement of Shri C. B. Kaushik, General Secretary of the union and the authorised representative of the workmen read with the various documents filed by him, it would further appear that the management had taken such disciplinary action like suspension etc. against these workmen previously also but subsequently some settlements have been arrived at between the parties which were, however, not implemented by the management. All these facts taken together go a long way to show that the relations between the management and these workmen were anything but good and the management was after harming them as stated by Shri C. B. Kaushik. In the circumstances, the plea of victimisation raised on behalf of the workmen cannot be considered to be without force. It is common around between the parties that Reference No. 41 of 1970 in respect of certain demands raised by the workmen on the management was pending adjudication before this Tribunal while the impugned action of dismissal from service against these workmen was taken. One of the demands covered by the said reference was for grant of bonus for the year 1968 and the award with respect to this demand was going to affect all the workmen in the factory. The plea raised by the management that the complainants were not concerned workmen was simply preposterous. They were not only the concerned workmen but also the protected workmen being office-bearers of the union which is registered one. Nothing to the contrary has been proved by the management.

That disposes of all the issues. Issue Nos. 1 and 2 have in fact already been decided against the management,—vide order, dated 23rd April 1971. Nothing worth consideration has been urged on behalf of the management with regard to issue Nos. 3 and 4. As pointed out, as to the office-bearers including the names of the present workmen had been duly communicated to the management for recognition as protected workmen according to the law. The management had not raised any objection and its silence in the matter, intentional or otherwise, would not make any difference. The present workmen had to be recognised as protected workmen within the meaning of the law as contended by their authorised representative Shri C. B. Kaushik. Issue Nos. 3 and 4 are, therefore, decided in favour of the workmen and against the management.

That disposes of the entire case. No other point worth consideration has been urged. In view of my above discussions, I am quite clear in my mind that no proper enquiry had been held by the management into the alleged misconduct of neglect of duties on the part of the concerned workmen and the management had clearly violated the provisions of section 33 of the Industrial Disputes Act, 1947 in taking the impugned action of dismissal from service against these workmen during the pendency of the reference No. 41 of 1970 without seeking prior permission of the Tribunal and on what seems to be a rather flimsy charge which has not been established by any cogent and convincing evidence. It will not be out of place to consider here that the mandatory provisions of law regarding payment of wages for one month before passing the order of dismissal from the service of workmen was also not complied with by the management.

In view of the above finding and the reason aforesaid the impugned orders of the dismissal from service passed by the management in respect of Sarvshri Badle Ram, Nirmal Singh, Kanta Parshad, Murari Lal, Chand, Kalu Ram, Jagan Nath and Mani Ram shall be struck down and in the result, they would be all entitled to reinstatement with continuity of their previous service and full back wages. They would further be entitled to Rs 100 each as the costs of the present proceedings.

Dated:—

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 786, dated the 17th July, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 16th July, 1972.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 8099-4 Lab-72/31063.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Hemla Embroidery Mills Private Ltd., Mathura Road, Faridabad:—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 14 of 1972

between

THE WORKMEN AND THE MANAGEMENT OF M/S HEMLA EMBROIDERY MILLS  
PRIVATE LTD., MATHURA ROAD, FARIDABAD

Present:

Nemo, for the workmen.

Shri R. C. Sharma, for the management.

#### AWARD

The following disputes between the workmen and the management of M/s Hemla Embroidery Mills Private Ltd., Mathura Road, Faridabad were referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—vide endorsement No. ID/7D/189/C/71/5872, dated 18th February, 1972:—

1. Whether the management should be required to give special compensation of full benefit of leave to the workers who are T.B. patients? If so, with what details?
2. Whether the workers should be granted sick leaves as provided in Punjab Industrial Establishment (National and Festival and Casual and Sick Leave) Act, 1955 over and above the sickness benefit provided under Employees State Insurance Act? If so, with what details?

On receipt of the order of reference the parties were called upon to put in their respective written statements. The workmen or their authorised representative have not come forward to file any statement of claim and to pursue the case in spite of due service. The management has filed the written statement contesting the demands raised by the workmen and some legal objections have also been raised.

I have heard the learned representative of the management. According to him the demands the subject matter of the present reference are barred by the provisions of the Employees Insurance Act, the Workmen Compensation Act, read with the Punjab Industrial Establishment (National and Festival and Casual and Sick Leave) Act, 1955.

I have carefully gone through the relevant provisions of the aforesaid Act. The contentions raised by the learned representatives of the management do not appear to be without force and, in the circumstances, the workmen are not entitled to any relief in the present reference especially when they have not come forward to file any statement of claim and to pursue the demands referred for adjudication. The presumption is that they are not interested in the dispute.

I, therefore, make a no dispute award in the case but without any order as to costs.

O. P. SHARMA,

Dated the 7th July, 1972.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 767, dated the 7th July, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 7th July, 1972.

O. P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.